

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**PATRICK ALBERT BYERS, Jr.,
#43310-037,**

Plaintiff,

vs.

**KATHY HILL,
DAN SPROUL,
J. LECLAIR,
T. CRAWFORD,
and USA,**

Defendants.

Case No. 21-cv-01317-JPG

ORDER DISMISSING CASE

GILBERT, District Judge:

Plaintiff Patrick Byers, Jr., filed this action in state court pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), to challenge interference with his mail by staff at the United States Penitentiary in Marion, Illinois. (Doc. 1-1). Plaintiff claims that staff interference with his incoming non-nude, non-sexually explicit photos violated his rights under federal and state law. (*Id.*). Defendants removed the case to this federal court. (Doc. 1).

Plaintiff's case was properly removed, but his claims did not survive preliminary review under 28 U.S.C. § 1915A and were dismissed on August 9, 2022. (Doc. 11). Plaintiff was granted leave to file a First Amended Complaint on or before September 6, 2022, if he intended to proceed any further with his claims in this case. (*Id.*). He was warned that failure to file an amended complaint by the deadline would result in dismissal of the action with prejudice. (*Id.* at 11) (citing FED. R. CIV. P. 41(b)).

Plaintiff missed the deadline for filing the First Amended Complaint on September 6, 2022. At least a week has passed since the deadline expired. He has not requested an extension. The Court will not allow this matter to linger indefinitely. This action shall be dismissed with prejudice for failure to comply with the Court's Order (Doc. 11) to file a First Amended Complaint and/or to prosecute his claims. FED. R. CIV. P. 41(b).

Disposition

IT IS HEREBY ORDERED that this action is **DISMISSED** with prejudice based on Plaintiff's failure to comply with the Court's Order (Doc. 11) to file a First Amended Complaint and/or prosecute his claims. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994).

The Clerk's Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: 9/13/2022

s/J. Phil Gilbert
J. PHIL GILBERT
United States District Judge